

Order

**Michigan Supreme Court
Lansing, Michigan**

September 23, 2015

Robert P. Young, Jr.,
Chief Justice

ADM File No. 2013-02

Stephen J. Markman

Mary Beth Kelly

Brian K. Zahra

Amendments of Rule 5.402
of the Michigan Court Rules

Bridget M. McCormack

David F. Viviano

Richard H. Bernstein,
Justices

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following revisions of MCR 5.402 are adopted, effective immediately.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Rule 5.402 Common Provisions

(A)-(D)[Unchanged.]

(E) Indian Child; Definitions, Jurisdiction, Notice, Transfer, Intervention.

(1)-(4)[Unchanged.]

(5) If the court discovers a child may be an Indian child after a guardianship is ordered, the court shall do all of the following:

(a) schedule a hearing to be conducted in accordance with MCR 5.404(C) and MCR 5.404(F).

(b) enter an order for an investigation in accordance with MCR 5.404(A)(2). The order shall be on a form approved by the State Court Administrative Office and shall require the guardian to cooperate in the investigation. The court shall mail a copy of the order to the persons prescribed in MCR 5.125(A)(8), (C)(19), and (C)(25) by first-class mail.

- (c) provide notice of the guardianship and the hearing scheduled in subrule (5)(a) and the potential applicability of the Indian Child Welfare Act and the Michigan Indian Family Preservation Act on a form approved by the State Court Administrative Office to the persons prescribed in MCR 5.125(A)(8), (C)(19), and (C)(25) in accordance with MCR 5.109(1). A copy of the notice shall be mailed to the guardian by first-class mail.

Staff Comment: The amendment of MCR 5.402(E)(5)(a) requires a court that discovers a child of an ordered guardianship may be an Indian child to schedule a hearing in accordance with MCR 5.404(C) and MCR 5.404(F), the amendment of MCR 5.402(E)(5)(b) requires the court to enter an order for investigation in accordance with MCR 5.404(A)(2), and the amendment of MCR 5.402(E)(5)(c) requires notice of the hearing scheduled in subrule (5)(a) to be provided to the persons prescribed.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 23, 2015

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk